

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

RODNEY HOPKINS,

Plaintiff,

v.

Case No. 10-C-291

**JOHN HUSZ, and
HEALTH SUPERVISOR,**

Defendants.

ORDER DISMISSING CASE

The plaintiff, Rodney Hopkins, a state prisoner proceeding pro se, filed a civil rights complaint pursuant to 42 U.S.C. § 1983 and has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. Pursuant to the Prison Litigation Reform Act, the plaintiff is required to pay the statutory filing fee of \$350.00 for this action. See 28 U.S.C. § 1915(b)(1).

The court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 because the matter arises under federal statutes. Venue is proper under 28 U.S.C. § 1391. The case was assigned according to the random assignment of civil cases pursuant to 28 U.S.C. § 636(b)(1)(B) and General Local Rule 72 (E.D. Wis.). The plaintiff consented to United States magistrate judge jurisdiction pursuant to 28 U.S.C. § 636(c) and General Local Rule 73 (E.D. Wis.).

By order dated April 8, 2010, the plaintiff was ordered to forward to the Clerk of Court by May 3, 2010 the sum of \$4.06 as an initial partial filing fee in this action. The plaintiff was advised that, upon payment of this fee, the court would determine whether the action can proceed in forma pauperis. The plaintiff has not paid this partial filing fee. From this failure to pay the initial filing

fee, this court infers that the plaintiff no longer wants to prosecute this action. Therefore, the court will dismiss this case without prejudice.

NOW, THEREFORE, IT IS HEREBY ORDERED that this action is **DISMISSED** without prejudice for failure to prosecute.

IT IS FURTHER ORDERED that the plaintiff's motion for leave to proceed in forma pauperis (Docket # 2) is **DENIED** as moot.

IT IS ALSO ORDERED that copies of this order be sent to the warden of the Racine Correctional Institution and to Corey F. Finkelmeyer, Assistant Attorney General, Wisconsin Department of Justice, P.O. Box 7857, Madison, Wisconsin, 53707-7857.

Dated at Milwaukee, Wisconsin this 19th day of May, 2010.

BY THE COURT:

s/AARON E. GOODSTEIN
United States Magistrate Judge